

States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

(Pub. L. 108–25, title II, §201, May 27, 2003, 117 Stat. 723.)

§ 7622. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria

(a) Findings

The Congress finds as follows:

(1) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by the Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264) [22 U.S.C. 6801 et seq.].

(2) Section 2, Article 5 of the bylaws of the Global Fund provides for the International Bank for Reconstruction and Development to serve as the initial collection trustee for the Global Fund.

(3) The trustee agreement signed between the Global Fund and the International Bank for Reconstruction and Development narrows the range of duties to include receiving and investing funds from donors, disbursing the funds upon the instruction of the Global Fund, reporting on trust fund resources to donors and the Global Fund, and providing an annual external audit report to the Global Fund.

(b) Authority for United States participation

(1) United States participation

The United States is hereby authorized to participate in the Global Fund.

(2) Privileges and immunities

The Global Fund shall be considered a public international organization for purposes of section 288 of this title.

(c) Reports to Congress

Not later than 1 year after May 27, 2003, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged to, contributions (including donations from the private sector) received by, and projects funded by the Global Fund, and the mechanisms established for transparency and accountability in the grant-making process.

(d) United States financial participation

(1) Authorization of appropriations

In addition to any other funds authorized to be appropriated for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, of the amounts authorized to be appropriated under section 7671 of this title, there are authorized to be appropriated to the President up to \$1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004, and such sums as may be necessary for the fiscal years 2005–2008, for contributions to the Global Fund.

(2) Availability of funds

Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Reprogramming of fiscal year 2001 funds

Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 [22 U.S.C. 6841]—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal years 2004 through 2008 under paragraph (1).

(4) Limitation

(A)(i) At any time during fiscal years 2004 through 2008, no United States contribution to the Global Fund may cause the total amount of United States Government contributions to the Global Fund to exceed 33 percent of the total amount of funds contributed to the Global Fund from all sources. Contributions to the Global Fund from the International Bank for Reconstruction and Development and the International Monetary Fund shall not be considered in determining compliance with this paragraph.

(ii) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the Global Fund has provided assistance to a country, the government of which the Secretary of State has determined, for purposes of section 2405(j)(1) of title 50, Appendix, has repeatedly provided support for acts of international terrorism, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the amount expended by the Fund to the government of each such country.

(iii) If at any time the President determines that the expenses of the Governing, Administrative, and Advisory Bodies (including the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Board) of the Global Fund exceed 10 percent of the total expenditures of the Fund for any 2-year period, the United States shall withhold from its contribution for the next fiscal year an amount equal to the average annual amount expended by the Fund for such 2-year period for the expenses of the Governing, Administrative, and Advisory Bodies in excess of 10 percent of the total expenditures of the Fund.

(iv) The President may waive the application of clause (iii) if the President determines that extraordinary circumstances warrant such a waiver. No waiver under this clause may be for any period that exceeds 1 year.

(v) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States (as determined under section 104 of title 3) for that fiscal year, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the aggregate amount by which the salary of each such indi-

vidual exceeds the salary of the Vice President of the United States.

(vi) for¹ the purposes of clause (i), “funds contributed to the Global Fund from all sources” means funds contributed to the Global Fund at any time during fiscal years 2004 through 2008 that are not contributed to fulfill a commitment made for a fiscal year prior to fiscal year 2004.

(B)(i) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(i) shall be contributed to the Global Fund as soon as practicable, subject to subparagraph (A)(i), after additional contributions to the Global Fund are made from other sources.

(ii) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(iii) shall be transferred to the Activities to Combat HIV/AIDS Globally Fund and shall remain available under the same terms and conditions as funds appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance.

(iii) Any amount made available under this subsection that is withheld by reason of clause (ii) or (iii) of subparagraph (A) is authorized to be made available to carry out section 2151b-2 of this title. Amounts made available under the preceding sentence are in addition to amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance.

(iv) Notwithstanding clause (i), after July 31 of each of the fiscal years 2004 through 2008, any amount made available under this subsection that is withheld by reason of subparagraph (A)(i) is authorized to be made available to carry out sections 2151b-2, 2151b-3, and 2151b-4 of this title.

(C)(i) The President may suspend the application of subparagraph (A) with respect to a fiscal year if the President determines that an international health emergency threatens the national security interests of the United States.

(ii) The President shall notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 5 days before making a determination under clause (i) with respect to the application of subparagraph (A)(i) and shall include in the notification—

(I) a justification as to why increased United States Government contributions to the Global Fund is preferable to increased United States assistance to combat HIV/AIDS, tuberculosis, and malaria on a bilateral basis; and

(II) an explanation as to why other government donors to the Global Fund are unable to provide adequate contributions to the Fund.

(e) Interagency technical review panel

(1) Establishment

The Coordinator of United States Government Activities to Combat HIV/AIDS Glob-

ally, established in section 2651a(f)(1) of this title, shall establish in the executive branch an interagency technical review panel.

(2) Duties

The interagency technical review panel shall serve as a “shadow” panel to the Global Fund by—

(A) periodically reviewing all proposals received by the Global Fund; and

(B) providing guidance to the United States persons who are representatives on the panels, committees, and boards of the Global Fund, on the technical efficacy, suitability, and appropriateness of the proposals, and ensuring that such persons are fully informed of technical inadequacies or other aspects of the proposals that are inconsistent with the purposes of this chapter or any other Act relating to the provision of foreign assistance in the area of AIDS.

(3) Membership

The interagency technical review panel shall consist of qualified medical and development experts who are officers or employees of the Department of Health and Human Services, the Department of State, and the United States Agency for International Development.

(4) Chair

The Coordinator referred to in paragraph (1) shall chair the interagency technical review panel.

(f) Monitoring by Comptroller General

(1) Monitoring

The Comptroller General shall monitor and evaluate projects funded by the Global Fund.

(2) Report

The Comptroller General shall on a biennial basis shall prepare and submit to the appropriate congressional committees a report that contains the results of the monitoring and evaluation described in paragraph (1) for the preceding 2-year period.

(g) Provision of information to Congress

The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall make available to the Congress the following documents within 30 days of a request by the Congress for such documents:

(1) All financial and accounting statements for the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, including administrative and grantee statements.

(2) Reports provided to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by organizations contracted to audit recipients of funds.

(3) Project proposals submitted by applicants for funding from the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, but which were not funded.

(4) Progress reports submitted to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by grantees.

(h) Sense of the Congress regarding encouragement of private contributions to the Global Fund

It is the sense of the Congress that the President should—

¹ So in original. Probably should be capitalized.

(1) conduct an outreach campaign that is designed to—

- (A) inform the public of the existence of—
 - (i) the Global Fund; and
 - (ii) any entity that will accept private contributions intended for use by the Global Fund; and

(B) encourage private contributions to the Global Fund; and

(2) encourage private contributions intended for use by the Global Fund by—

- (A) establishing and operating an Internet website, and publishing information about the website; and
- (B) making public service announcements on radio and television.

(Pub. L. 108-25, title II, § 202, May 27, 2003, 117 Stat. 724; Pub. L. 108-199, div. D, title V, § 595(1), (2), Jan. 23, 2004, 118 Stat. 209.)

REFERENCES IN TEXT

The Global AIDS and Tuberculosis Relief Act of 2000, referred to in subsec. (a)(1), is Pub. L. 106-264, Aug. 19, 2000, 114 Stat. 748, which is classified principally to chapter 76 (§6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

This chapter, referred to in subsec. (e)(2)(B), was in the original a reference to this Act, meaning Pub. L. 108-25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2004—Subsec. (d)(4)(A)(vi). Pub. L. 108-199, § 595(1), added cl. (vi).

Subsec. (d)(4)(B)(iv). Pub. L. 108-199, § 595(2), added cl. (iv).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and Memorandum of President of Feb. 23, 2004, 69 F.R. 9509, set out as a note under section 7611 of this title.

SUBCHAPTER III—BILATERAL EFFORTS

PART A—GENERAL ASSISTANCE AND PROGRAMS

§ 7631. Assistance to combat HIV/AIDS

(a) Omitted

(b) Authorization of appropriations

(1) In general

In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act [22 U.S.C. 2151 et seq.], there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a) [22 U.S.C. 2151b-2].

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) Allocation of funds

Of the amount authorized to be appropriated by paragraph (1) for the fiscal years 2004 through 2008, such sums as may be necessary are authorized to be appropriated to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)) [22 U.S.C. 2151b-2(d)(4)], relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(c) Relationship to assistance programs to enhance nutrition

In recognition of the fact that malnutrition may hasten the progression of HIV to AIDS and may exacerbate the decline among AIDS patients leading to a shorter life span, the Administrator of the United States Agency for International Development shall, as appropriate—

(1) integrate nutrition programs with HIV/AIDS activities, generally;

(2) provide, as a component of an anti-retroviral therapy program, support for food and nutrition to individuals infected with and affected by HIV/AIDS; and

(3) provide support for food and nutrition for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS.

(d) Eligibility for assistance

An organization that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961 (as added by subsection (a)) [22 U.S.C. 2151b-2] or under any other provision of this chapter (or any amendment made by this chapter) to prevent, treat, or monitor HIV/AIDS shall not be required, as a condition of receiving the assistance, to endorse or utilize a multisectoral approach to combatting HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection.

(e) Limitation

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(f) Limitation

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking, except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency.

(g) Sense of Congress relating to food assistance for individuals living with HIV/AIDS

(1) Findings

Congress finds the following: